

Seat Belts on School Transport (Scotland) Bill

Explanatory notes

Introduction

1. As required under Rule 9.3.2A of the Parliament's Standing Orders, these Explanatory Notes are published to accompany the Seat Belts on School Transport (Scotland) Bill introduced in the Scottish Parliament on 28 February 2017. These Explanatory Notes have been prepared by officials of the Scottish Government to support Gillian Martin MSP, the member in charge of the Bill, in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by the Parliament.

2. The following other accompanying documents are published separately:

- statements on legislative competence by the Presiding Officer and Gillian Martin MSP (SP Bill 7–PM);
- a Financial Memorandum (SP Bill 7–FM);
- a Policy Memorandum (SP Bill 7–PM).

3. The Notes should be read in conjunction with the Bill. They are not, and are not meant to be, a comprehensive description of the Bill. So where a section or a part of a section does not seem to require any explanation or comment none is given.

The Bill

4. The purpose of the Bill is to improve road safety for school children by requiring that seat belts are fitted on all motor vehicles used in dedicated school transport services, as defined in the Bill. The Scotland Act 1998 (Modification of Schedule 5) Order 2015 (S.I. 2015/1379) devolved to the

This document relates to the Seat Belts on School Transport (Scotland) Bill (SP Bill 7) as introduced in the Scottish Parliament on 28 February 2017

Scottish Parliament the legislative competence to regulate the description of motor vehicles which are used to transport pupils to and from school.

5. However, the setting of technical standards for the construction or equipment of such vehicles, different from any such standards that ordinarily apply under existing UK law, was not devolved by the 2015 Order. In addition, the rest of the subject-matter of the Road Traffic Act 1988 remains reserved, as per Schedule 5 Part II Head E of the Scotland Act 1998, and so both areas are outside the Scottish Parliament's legislative competence. This includes the law on the wearing of seat belts, which is currently contained in the Motor Vehicles (Wearing of Seat Belts) Regulations 1993 (S.I. 1993/176).

Commentary on sections

Section 1 – Duty to ensure seat belts fitted on dedicated school transport services

6. This section imposes a duty on “school authorities” – that is, education authorities, the managers of grant-aided schools and the proprietors of independent schools – to ensure that seat belts are fitted to every passenger seat in every motor vehicle which is used in a dedicated school transport service (i.e. one belt per pupil).

7. The framing of the duty includes both vehicles that a school authority owns and directly provides for such a service and also vehicles which are indirectly provided via contractual arrangements with a third party transport operator, something which is very common in practice with education authorities in particular.

8. In order to fulfil the duty imposed by this section a school authority which does not currently use vehicles with seat belts for such provision would have the option of choosing to “retrofit” vehicles itself – or alternatively, to use, or contract for the use of, vehicles that already have seat belts fitted.

Section 2 – Meaning of “dedicated school transport service”

9. This section defines “dedicated school transport service” for the purposes of the Bill.

10. This means transport services which carry pupils to and/or from any educational establishment where they receive primary or secondary education. There are situations where pupils begin or end the school day at

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an institution at which they are not registered – for instance to take certain classes which are not offered at their own school – and this would be covered by the definition.

11. However, since the definition refers to the “sole purpose” of the transport service being to carry pupils, in determining whether a service falls within the definition its essential purpose must be considered. For example, a transport service which is provided for the purpose of carrying both members of the general public as well as school children, even if in practice the service carries mainly school children, would be excluded from the ambit of the Bill.

Section 3 – Meaning of other key terms

12. This section defines other key terms that appear in the Bill.

13. The definition of “motor vehicle” is imported from section 185 of the Road Traffic Act 1988, i.e. “a mechanically propelled vehicle intended or adapted for use on roads”. The 1988 Act was the source from which legislative competence was devolved in the express terms of the 2015 Order mentioned in paragraph 4 above.

14. The definition of “school authority” is a tripartite one, comprising education authorities (i.e. local authorities constituted under section 2 of the Local Government etc. (Scotland) Act 1994), the managers of grant-aided schools and the proprietors of independent schools – thus all three kinds of school in Scotland are covered by the Bill. Those and other terms in the Bill which appear in the Education (Scotland) Act 1980 are collated in subsection (2) of this section.

15. The effect of the definition of “seat belt” is simply to apply the existing UK law on the requirements for the types and design of seat belts that must be fitted in different classes of motor vehicles. This application without alteration is made necessary by the technical standards restriction on legislative competence mentioned in paragraph 4 above. The existing UK law is contained in the Road Vehicles (Construction and Use) Regulations 1986 (S.I. 1986/1078) (“the 1986 Regulations”), which were respectively made and amended under the two powers in the Road Traffic Acts referred to in the definition of “seat belt” in section 3 here.

16. Regulation 47 of the 1986 Regulations sets out the range of options for which kind of seat belt must be fitted in particular classes of vehicle.

This document relates to the Seat Belts on School Transport (Scotland) Bill (SP Bill 7) as introduced in the Scottish Parliament on 28 February 2017

There are four main kinds that appear in Regulation 47: three-point belts, lap belts, child restraints and disabled person's belts. In addition, inertia reel belts are specified as a type of three-point belt, and retractable lap belts as a type of lap belt. The 1986 Regulations also prescribe detailed technical requirements for the construction, installation and maintenance of seat belts, requirements which are not reproduced in the Bill but represent the relevant law currently in force.

Section 4 – Annual compliance statement

17. Subsection (1) of this section imposes a self-reporting duty on school authorities, who must prepare an annual statement of their compliance with the duty relating to seat belts imposed by section 1 of the Bill. Subsection (2) sets out what information the statement must contain.

18. Subsection (3)(a) prescribes the timing of publication of the statement and subsection (3)(b) leaves the form of publication open to individual school authorities.

Section 5 - Commencement

19. Subsection (1) of this section provides that this section and sections 2, 3 and 6 come into force on the day after Royal Assent. The remainder of the Bill, once enacted, comes into force on the day or days appointed by the Scottish Ministers in regulations made under subsection (2).

20. Subsection (3)(a) provides that these commencement regulations may also include transitional, transitory or saving provision. It should be noted that these aspects are not substantive powers but are dependent on commencement. Subsection (3)(b) provides that the regulations may appoint different days for different purposes. For instance this would allow the duty in section 1 to be brought into force for primary school children at the start of one school year and for secondary school children at the start of another.

Section 6 - Short title

21. This section provides that the Bill, once enacted, will be referred to as the Seat Belts on School Transport (Scotland) Act 2017.

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